

### **REMARKS**

This responds to the Office Action mailed on December 11, 2007.

Claims 1, 10 and 28 are amended, claims 2-4, 9, 20-27, 29-31 and 36 have been canceled in previous responses, and no claims are added; as a result, claims 1, 5-8, 10-19, 28 and 32-35 remain are now pending in this application.

### **§103 Rejection of the Claims**

Claims 1, 5-8, 10-11, 13, 15-16, 18-19, 28 and 32-35 were rejected under 35 USC § 103(a) as being unpatentable over Millman et al. (U.S. Patent 6,476,800 B2) in view of Aldrich et al. (U.S. Publication No. 2003/0201990 A1). The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ; M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully traverses the rejection because the claims as amended recite elements not taught or suggested in the combination of Millman and Aldrich. For example, claim 1 as amended recites “selecting a policy from a plurality of power management policies, wherein the selected policy matches the power management event.” Claims 10 and 28 as amended recite similar language. In the response to Applicant’s arguments provided in section 4, the Office Action states that the automatic adjustment of a refresh rate is considered to be a predetermined existing power management policy for controlling how and when a display update property [is adjusted]. While Applicant respectfully disagrees with this interpretation, in order to expedite prosecution Applicant has amended the claims such that a policy that matches a power management event is selected from a plurality of preexisting policies. Applicant has reviewed Millman and Aldrich and can find no teaching or suggestion of selecting a policy from a plurality of policies where the selected policy matches a power management event. As a result, neither Millman nor Aldrich, alone or in combination, teach or suggest each and every element of Applicant’s claims 1, 10 and 28 as amended. Therefore claims 1, 10 and 28 are not obvious in view of the differences between the claims and the combination of Millman and Aldrich. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1, 10 and 28.

Claims 5-8 depend from claim 1; claims 11, 13, 15-16 and 18-19 depend from claim 10; and claims 32-35 depend from claim 28. These dependent claims inherit the elements of their respective base claims and are patentable over Millman and Aldrich for the reasons argued above, and are also patentable in view of the additional elements which they provide to the patentable combination. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. MPEP § 2143.03.

Claims 12-14 were rejected under 35 USC § 103(a) as being unpatentable over Millman et al. (U.S. Patent 6,476,800 B2) and Aldrich et al. (U.S. Publication No. 2003/0201990 A1) as applied to claims 1, 10 and 23 above, and further in view of Bril et al. (U.S. Patent 6,078,319). Claims 12 and 14 depend from claim 10 and therefore inherit the elements of claim 10, including elements directed to a processor operable to select a policy from a plurality of policies, wherein the selected policy matches a power management event and further changing a display update property in accordance with the selected policy. As discussed above with respect to claim 10,

neither Millman nor Aldrich teach or suggest selecting a matching policy from a plurality of policies to control how and when a display update property is changed in response to a power management event. Additionally, Applicant has reviewed Bril and can find no teaching or suggestion of the use of policies to control how and when a display update property is changed in response to a power management event. As a result, claims 12 and 14 contain elements not taught or suggested in the combination of Millman, Aldrich and Bril. Therefore claims 12 and 14 are not obvious in view of the differences between the claims and the combination of Millman Aldrich and Bril. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 12 and 14.

### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney (612- 373-6954) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

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By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10th day of April 2008.

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Signature

[Signature]